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Affidavit about Siegelman case open to debate

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An affidavit cited as proof that White House strategist Karl Rove helped arrange the Justice Department prosecution of former Gov. Don Siegelman doesn't actually say Rove was behind the investigation, the lawyer who wrote it said. But that hasn't stopped others from using the affidavit to demand a congressional hearing.

Jill Simpson, the Republican Rainsville lawyer who wrote the affidavit, said in an interview that she is not responsible for how others interpret her sworn statement. She said she tried to accurately represent a conference call she heard in which Rove's name came up, and she said no one definitively said in that call that Rove arranged for Siegelman's investigation.

It's not clear if Rove was being identified in the call as the person behind the investigation or as someone who heard Siegelman already was under investigation, Simpson said.

"You can read it both ways," Simpson said in the interview Friday. "I did it as best I could to factually write it down as exactly as to what was said. And there's two interpretations to it, there's no doubt about that."

The fact that Simpson's affidavit is unclear about Rove's role is significant because her statement has been reported nationally as the first clear link between Rove and the Siegelman case. Democrats and Siegelman supporters have cited Simpson's affidavit as proof that the case was politically motivated, with U.S. Rep. Artur Davis, D-Birmingham, becoming the latest to argue that Siegelman's case should be included with others under congressional review for possible selective prosecution.

And that's fine with Siegelman's lawyers, who say Simpson's claims are not relevant to the appeal of his conviction. A congressional review, however, could help him win a new trial.

"I don't know whether what she says is true or not. And it doesn't really matter as to where I am or what my job is right now," Siegelman lawyer Vince Kilborn said. "But if there are documents produced, let's say, in the congressional investigation, and they're exculpatory and they have not been produced to the defense, that's a new trial, in my opinion."

Siegelman and HealthSouth founder Richard Scrushy remain in an Atlanta federal prison following their sentencing on corruption convictions last month.

Close election:

The national buzz over possible White House influence in the Siegelman investigation began several weeks ago, after Simpson's affidavit was distributed to several national publications. Simpson said Scrushy lawyer Art Leach asked her earlier this year to write the affidavit.

In her affidavit, written in May, Simpson said fellow Republicans during a conference call on Nov. 18, 2002, discussed concerns that Siegelman would continue to be a political problem in the future. That was days after the general election, and Siegelman and Bob Riley, who would go on to win the governor's race, were involved in a heated recount battle because of the election's razor-thin margin.

Simpson's affidavit said Bill Canary, a Riley adviser, told Riley's son on the call that Siegelman wasn't likely to be an issue. Canary is the husband of U.S. Attorney Leura Canary of Montgomery, whose staff handled the Siegelman investigation.

"William 'Bill' Canary told him not to worry, that he had already gotten it worked out with Karl and Karl had spoken with the Department of Justice and the Department of Justice was already pursuing Don Siegelman," Simpson said in the affidavit.

The federal investigation of Siegelman was well publicized before the November 2002 conference call Simpson describes in her affidavit. Nearly 10 months earlier, The Birmingham News reported the federal investigation of Siegelman.

The case received extensive media coverage throughout that year, including articles about Leura Canary stepping aside from the investigation, and arguments by Siegelman and his lawyers that politics prompted the investigation.

Media inferences:

While Simpson does not say it explicitly in her carefully worded affidavit, her statement about Rove has led several national media outlets and Siegelman supporters to infer that she heard Canary say Rove arranged for the Justice Department investigation of Siegelman. The result has been a number of articles characterizing Rove's role in different ways, even using partial quotes from Simpson's affidavit at times to more clearly link Rove to the case.

Time magazine: "A longtime Republican lawyer in Alabama swears she heard a top GOP operative in the state say that Rove 'had spoken with the Department of Justice' about 'pursuing' Siegelman."

Los Angeles Times: "Just this month, a Republican lawyer signed a sworn statement that she had heard five years ago that Rove was preparing to politically neutralize the popular Siegelman." The Times in the same article states that Simpson's affidavit said Rove and others "would make sure the Justice Department pursued the Democrat so he was not a political threat in the future."

The New York Times editorial: "The most arresting evidence that Mr. Siegelman may have been railroaded is a sworn statement by a Republican lawyer, Dana Jill Simpson. Ms. Simpson said she was on a conference call in which Bill Canary, the husband of the United States attorney whose office handled the case, insisted that 'his girls' would 'take care of' Mr. Siegelman. According to Ms. Simpson, he identified his 'girls' as his wife, Leura Canary, and another top Alabama prosecutor. Mr. Canary, who has longstanding ties to Karl Rove, also said, according to Ms. Simpson, that he had worked it out with 'Karl.'"

Hearing requested:

Davis, in a letter requesting a congressional hearing, also went further in linking Rove to the Siegelman case than Simpson did in her affidavit. He cited The New York Times editorial in his request to House leaders Friday that Siegelman's case be included in a broader congressional investigation of selective political prosecutions.

"Most explosively, an attorney who worked in the 2002 campaign against Siegelman has sworn an affidavit claiming that she participated in a November 2002 conference call in which an influential Republican claimed that Karl Rove had given assurances that Siegelman would be indicted."

Simpson said in her interview Friday that she is not responsible for how Davis and the media characterize her affidavit.

Davis held a different view of Simpson's affidavit in an interview last month, noting that her statement did not prove Siegelman's case was politically motivated. "All Jill Simpson can testify to is what she says a bunch of people said during a phone conversation. Rove never came on the line," Davis said last month. "That's why the affidavit doesn't tell you that much."

Davis on Friday said he has not changed his position, and he once again downplayed Simpson's affidavit.

"I don't put much stock in the affidavit as critical proof," he said. "The affidavit is one piece of proof ... but I don't think it is the most important piece of proof in this matter. It doesn't speak to Karl Rove. The question is whether Karl Rove ever did or said anything to instigate this investigation."

A bid for accuracy:

Simpson said that while she personally believes Rove had a role in the federal investigation of Siegelman, she was careful in her affidavit not to overstate what was said in the conference call, despite complaints from some who wanted her to more clearly link Rove to the case. Instead, Simpson said, she tried to factually recount the call, and in doing so allowed for the possibility that Canary was saying Rove heard about the investigation or Rove arranged for it.

"It can be either of the two," Simpson said. "And mind you, the fact of the matter is, I've heard from half a dozen people, 'Well, why can't you have said, blah blah blah blah blah?' And I'm like, 'I was trying to be factual.'"

Simpson said she's also troubled by the fact that the purpose of her affidavit is being ignored by some who have portrayed it as focusing on Rove's role in the Siegelman case. Rove is mentioned in only one of the 22 paragraphs, she said, in an affidavit that was written to disclose what she believes is another lawyer's conflict of interest.

Simpson claims Terry Butts, one of Scrushy's lawyers, had a conflict of interest in the corruption case because he earlier had worked for Riley and against Siegelman.

"To be honest with you, I wrote it about Terry Butts. I ended up writing an affidavit about it eventually. And I stand on it," she said in the interview.

In her affidavit, Simpson states that Butts was involved in the conference call and said he would persuade Siegelman to drop his challenge of Riley's 2002 victory. Butts and Canary have said the phone call Simpson refers to in the affidavit never happened.

"I can't have a conflict if the conversation didn't happen," Butts said Saturday.

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